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Dkt. 2271/60963-Z

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Seiji TERAZAWA et al.

Serial No.: 10/692,547

Group Art Unit: 2852

Filed: October 24, 2003

Examiner: Robert B. Beatty

For: TONER CONTAINER AND IMAGE FORMING METHOD AND APPARATUS USING SAME

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Paul Teng

Reg. No. 40,837

May 13, 2004
Date

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

COMMUNICATION IN RESPONSE TO APRIL 16, 2004 OFFICE ACTION

This Communication is submitted in response to the April 16, 2004 Office Action issued by the U.S. Patent and Trademark Office in connection with the above-identified patent application.

The April 16, 2004 Office Action indicates that examination of the application will be restricted by the Patent Office under 35 U.S.C. §121 to one of the following allegedly distinct species:

Group I. Claims 117 and 118, drawn to a method of filling a container, classified in class 141, subclass 18;

Group II. Claims 139-143, drawn to a container having an outlet wherein a pump aids in the dispensing, classified in class 222, subclass 372;

Group III. Claims 144-147, drawn to a container having an outlet and a mating portion for mating with the outlet,

classified in class 222, subclass 153.01; and
Group IV. Claims 148-151, drawn to a container having an outlet
with a shutter open/closure means, classified in class
222, subclass 544.

Applicants hereby elect, with traversal, to prosecute the
invention of Group II, claims 139-143.

Applicants, however, respectfully request reconsideration of the
restriction requirement. Under 35 U.S.C. §121, restriction may be
required if two or more independent and distinct inventions are claimed
in one application. Under M.P.E.P. §803, the application must be
examined on the merits, even though it includes claims to distinct
inventions, if the search and examination of an application can be made
without serious burden.

Groups I through IV are not independent. Under MPEP §802.01,
"independent" means there is no disclosed relationship between the
subjects disclosed. Each of Groups I through IV relates to use of a
toner container. Therefore, Applicant respectfully submits that the
Groups are not independent and restriction is improper.

In addition, Applicants submit that it would not be a serious
burden if restriction is not require, because a search for prior art
for one Group will likely turn up relevant references for the other
Group. Therefore, Applicants submit that search and examination of the
Groups together would not be a serious burden.

Accordingly, in view of the preceding remarks, Applicants
respectfully request that the restriction requirement be withdrawn.

If a petition for an extension of time is required to make this
response timely, this paper should be considered to be such a petition,
and the Commissioner is authorized to charge the requisite fees to our

Deposit Account No. 03-3125.

The Office is hereby authorized to charge any additional fees that may be required in connection with this response and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,



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